

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

TIMOTHY ROBERTSON,

Plaintiff,

v.

KITSAP COUNTY, CONMED, INC.,  
ARLEN JOHNSON, BARBARA  
MULL, SUE STEVENS, BRUCE  
KALER,

Defendants.

CASE NO. 3:15-CV-05422-RBL-DWC

ORDER

Currently before the Court are Plaintiff's Response to Defendants Conmed, Inc., Johnson, Kaler, Mull and Stevens' Motion to Dismiss filed on August 12, 2015 (Dkt. 9) and Defendant Kitsap County's Notice of Joinder filed on August 18, 2015. Dkt. 12.

Defendants Conmed, Inc., Johnson, Kaler, Mull and Stevens filed their Motion to Dismiss on July 20, 2015 and the Motion was noted for August 14, 2015. Dkt. 6. Plaintiff filed his Response on August 12, 2015. Dkt. 9. Defendants filed a Reply on August 13, 2015, requesting the Court strike Plaintiff's untimely response because Plaintiff did not file a motion

1 for an extension of time and plaintiff has failed to present excusable neglect. Dkt. 10 at 1. On  
2 August 18, 2015 Defendant Kitsap County filed its Notice of Joinder seeking to join Defendants  
3 Conmed, Inc., Johnson, Kaler, Mull and Stevens' Motion to Dismiss (Dkt. 6) "to the fullest  
4 extent briefed and applicable to Kitsap County." Dkt. 12.

5 **A. Plaintiff's Untimely Response**

6 Under Local Rule 7(d)(3) dispositive motions shall be noted for consideration on a date  
7 no earlier than the fourth Friday following filing and service of the motion. Further, "[a]ny  
8 opposition papers shall be filed and served not later than the Monday before the noting date. If  
9 service is by mail, the opposition papers shall be mailed not later than the Friday preceding the  
10 noting date." LCR 7(d)(3).

11 Here, the deadline for filing a response to Defendants' Conmed, Inc., Johnson, Kaler,  
12 Mull and Stevens' Motion to Dismiss was August 10, 2015. Plaintiff filed his response on  
13 August 12, 2015 – two days after the deadline under Local Rule 7(d)(3). Dkt. 9. Accordingly,  
14 Plaintiff is ordered to show cause why his untimely Response to Defendants Conmed, Inc.,  
15 Johnson, Kaler, Mull and Stevens' Motion to Dismiss should be considered. Plaintiff's response  
16 to the order to show cause is due on or before September 4, 2015.

17 **B. Defendant Kitsap County's Notice of Joinder**

18 Defendant Kitsap County filed its Notice of Joinder on August 18, 2015 – four days after  
19 the August 14, 2015 noting date of Defendants Conmed, Inc., Johnson, Kaler, Mull and Stevens'  
20 Motion to Dismiss. *See* Dkts. 6, 12. Thus, pursuant to Local Rule 7(d)(3), Plaintiff has not been  
21 afforded the opportunity to respond to Defendant Kitsap County's Motion to Dismiss. To ensure  
22 Plaintiff is not prejudiced and in order to give Plaintiff time to file a response with respect to his  
23 claims against Defendant Kitsap County, the Court orders the Clerk's Office to re-note  
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1 Defendants' Motion to Dismiss (Dkt. 6) for September 11, 2015. If Plaintiff wishes to file a  
2 response with respect to his claims against Defendant Kitsap County, his response is due  
3 September 7, 2015 and Defendants' supplemental reply, if any, will be due on or before  
4 September 11, 2015.

5 Dated this 20<sup>th</sup> day of August, 2015.

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8 David W. Christel  
9 United States Magistrate Judge  
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